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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,822	06/07/2000	Tatsuya Kubota	450108-4457.1	9634
20999	7590	09/14/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,822

Applicant(s)

KUBOTA ET AL.

Examiner

Hanh Nguyen

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 9-171039.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/7/00</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 10 and 11 objected to because of the following informalities: EMM data in claim 10 and EPG in claim 11 should be rewritten in complete words. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 8 and 9 are rejected under 35 USC 102(e) as being anticipated by Adams (US Pat. 6,044,396).

In claim 8, Adams discloses a data multiplexing device (multiplexer 208, fig.4) comprising a plurality of buffer memories which store a plurality of packet data strings constituting data elements (application buffer 402 storing application data streams and video buffers 400 storing video streams, see fig.4, col.4, lines 35-40); a switching means / switch control means (a selector 404, fig.4) for switching the buffer memories (selecting one of the buffer memories 400 for outputting to output buffer 406, col.4, lines 40-45) and time division multiplexes the plurality of packet data strings (selecting data from buffers 400 in round robin fashion to ensure fair allocation, see col.4, lines 65-67) to provide an output by sequentially time division switching the buffer memories with the switching means (selector 404 reads video packet from each video buffers 400 and application data from application buffer 402 in a round robin fashion for transmission to output buffer 406, see col.5, lines 1-5); a switch control means (selector 404) which selects, according to an input rate for the packet data strings, the plurality of buffer memories switcable by the switch means (selector 404 first selects video buffer 400 for transmission because they carry video streams which is higher priority than application data, see col.4, lines 52-65).

In claims 9, as described in parent claim 8, Adams discloses the switching means excluding a buffer memory for buffering lower priority information (application data in the application buffer 402 is lower priority than video streams, therefore, the video buffer 400 is selected first, see col.4, lines 52-65).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 11 are rejected under 35 USC 103(a) as being unpatentable over Adams (Pat. 6,044,396) in view of Hamilton et al. (Pat. 5,579,055).

In claims 10 and 11, Adams does not disclose the switch control means determines to exclude the packet data containing EMM data, EPG data among said plurality of buffers. Hamilton discloses EPG database manager 44 (switch control means) stores received EPG data into EPG database 46 for later recall (exclude lower priority buffer memory, see col.9, line 65 to col.10, line 5). Therefore, it would have been obvious to one ordinary skilled in the art to modify the Adams 's system by applying the teaching of Hamilton in order to exclude lower priority buffer memories storing EPG and EMM data.

Response to Arguments

Applicant's arguments with respect to claims 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yong et al. (Pat. 5,541,919) discloses Multimedia Multiplexing device and method using dynamic packet segmentation.

Oda et al. (Pat. 6,157,674) discloses Audio and video data transmitting apparatus, system and method thereof.

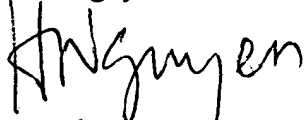
Yamashita (Pat. 5,506,903) discloses Digital Multiplex Transmission.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-Friday from 8AM to 5PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 571 272 3088. The fax phone number for the organization where this application or proceeding is assigned is 5712738300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen



September 12, 2005

HANH NGUYEN
PRIMARY EXAMINER